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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,376	08/18/2003	Michael A. Pouchak	H0005578 (1161.1125101)	3616

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EXAMINER

TANNER, HARRY B

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,376

Applicant(s)

POUCHAK, MICHAEL A. *eb*

Examiner

Harry B. Tanner

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-63 is/are pending in the application.
- 4a) Of the above claim(s) 47-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 33-46 and 53-63 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's election without traverse of the invention of Group I in the reply filed on 12/28/04 is acknowledged.

Claims 47-52 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/28/04.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33, 34 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWolf et al in view of Farley. DeWolf discloses the invention substantially as claimed. DeWolf discloses a thermostat system in which a central processor can monitor and download parameters to a plurality of zone control systems over a communication bus. Farley teaches a thermostat system having a first means for providing a modulated output and a second means for providing a non-modulated output such that one heating or cooling source is proportionally controlled and the other heating or cooling sources are controlled in an on/off manner (see col. 1, lines 47-56). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of DeWolf such that the zone air conditioning systems included a local thermostats having a first means for providing a modulated output and a second means for providing a non-modulated output such that one heating

or cooling source is proportionally controlled and the other heating or cooling sources are controlled in an on/off manner in view of the teachings of Farley.

Claims 35-37, 56-58 and 61-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWolf et al in view of Farley as applied to claim 33 above, and further in view of Worthington. Worthington teaches the use of simultaneous heating and cooling and air mover modulation in order to provide temperature and humidity control. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of DeWolf such that it included the use of simultaneous heating and cooling and air mover modulation in order to provide temperature and humidity control in view of the teachings of Worthington.

Claims 38-40 and 59-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWolf et al in view of Farley and Worthington as applied to claim 35 above, and further in view of official notice. Official notice is taken that the use of PID control is conventional in the air conditioning art. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of DeWolf such that it included the use of same.

Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over DeWolf et al in view of Farley and Worthington as applied to claim 35 above, and further in view of Kline et al. Kline teaches the use of a personal digital assistant in order to provide user interface to a climate control system (see col. 4, lines 3-21). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of DeWolf such that it included the use of a personal digital

assistant in order to provide user interface to a climate control system in view of the teachings of Kline.

Claims 41-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over DeWolf et al in view of Farley and Worthington and official notice as applied to claim 40 above, and further in view of Kline et al as applied to claim 63 above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-4813. The examiner can normally be reached 8:30 am to 6:00 pm Monday, Tuesday, Wednesday and Friday and 2:00 pm to 6:00 pm Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel, can be reached on (571) 272-4808. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Harry B. Tanner". The signature is stylized with a large, looped initial "H" and a long, sweeping tail.

Harry B. Tanner
Primary Examiner
Art Unit 3744